

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION

Reginald Barno,)	Civil Action No.: 0:14-cv-1646-RBH
)	
Petitioner,)	
)	
v.)	ORDER
)	
Willie L. Eagleton, <i>Warden</i> ,)	
)	
Respondent.)	
)	

Petitioner Reginald Barno (“Petitioner”), a state prisoner proceeding *pro se*, filed this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 on April 24, 2014. *See* Pet., ECF No. 1. The matter is before the Court for review of the Report and Recommendation (“R & R”) of United States Magistrate Judge Paige J. Gossett, made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Rule 73.02 for the District of South Carolina. *See* R & R, ECF No. 33. In the Report and Recommendation, the Magistrate Judge recommends that the Court dismiss this action *with prejudice* for failure to prosecute. *See id.* at 1–2.¹

¹ As the Magistrate Judge detailed in her R & R, Respondent filed a return to the petition and a motion for summary judgment on September 26, 2014. *See* Return, ECF No. 24; Mot., ECF No. 23. Because Petitioner is proceeding *pro se*, the Court entered a *Roseboro* Order on September 29, 2014, advising Petitioner of the summary judgment procedures and the possible consequences if he failed to respond. *See* Order, ECF No. 25 at 1–2. The Order directed Petitioner to respond within thirty-four (34) days, making the deadline November 3, 2014. *Id.* Petitioner did not file any response. Accordingly, on November 4, 2014, the Magistrate Judge issued an Order advising Petitioner that it appeared he was not opposing the motion and wished to abandon this action, and giving him an additional fourteen (14) days in which to file his response to Respondent’s motion for summary judgment. *See* Order, ECF No. 27. Petitioner was specifically warned that this action would be dismissed with prejudice if he failed to respond. *See id.* Petitioner did not respond to this Order either. Accordingly, the Magistrate Judge then issued her R & R recommending that the action be dismissed with prejudice for failure to prosecute. Objections to the R & R were due by December 18, 2014. As of the date of this Order, the Court has not received any response or objections to the R & R from Petitioner.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this Court. *See Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). The Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. *See* 28 U.S.C. § 636(b)(1).

No party has filed objections to the Report and Recommendation. In the absence of objections to the Report and Recommendation of the Magistrate Judge, this Court is not required to give any explanation for adopting the recommendations. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). The Court reviews only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct *de novo* review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation’”) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

After a thorough review of the record in this case, the Court finds no clear error. Accordingly, the Report and Recommendation of the Magistrate Judge is adopted and incorporated by reference. Therefore, it is **ORDERED** that Petitioner’s § 2254 petition is **DISMISSED** *with prejudice* for failure to prosecute and comply with a court order pursuant to Fed. R. Civ. P. 41(b). Respondent’s motion for summary judgment is **FOUND AS MOOT**.

IT IS SO ORDERED.

s/ R. Bryan Harwell
R. Bryan Harwell
United States District Judge

Florence, South Carolina
December 19, 2014